

STATE BUDGET AND CONTROL BOARD  
MEETING OF January 31, 2008

REGULAR SESSION  
ITEM NUMBER 7

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AGENCY: Procurement Services Division

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SUBJECT: Waiver to Extend the Maximum Time on a Multi-term Contract for USC Upstate

Section 11-35-2030(4), of the SC Consolidated Procurement Code limits the maximum time for any multi-term contract to five years unless otherwise approved by the Board. USC has asked the Materials Management Office to seek Board approval to authorize USC Upstate to contract for up to ten (10) years for its food service operations. USC Upstate officials believe a contract term of ten years will give the selected contractor greater ability to invest in improvements to the facilities and improve the quality of campus food service. USC Upstate has expanded its residence facilities by 350 students in 2005 and anticipates opening a third residence facility in the fall of 2009 that will increase its resident population to 1,050. The seating capacity for the current dining hall is approximately 255. USC Upstate plans to renovate and expand an existing café area in the summer of 2008 and renovate and expand the main dining hall in the summer of 2009. USC Upstate estimates a minimum capital investment by the contractor of \$1.5 million. In addition, to those capital investments, a commission on sales is being requested, to be determined by the selected offeror. According to USC Upstate officials, no additional cost will be imposed on meal plan prices for students as a result of the contractor's investment.

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BOARD ACTION REQUESTED:

Under authority of SC Consolidated Procurement Code Section 11-35-2030(4), grant USC Upstate's request for a multi-term contract for food service operations and authorize the solicitation of proposals and award of a contract for up to ten (10) years.

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ATTACHMENTS:

Agenda item worksheet; Letter of request from USC; Section 11-35-2030(4) of the SC Consolidated Procurement Code

## BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

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Meeting scheduled for: January 31, 2008

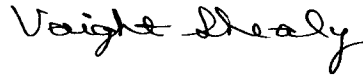
Regular Agenda

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Submitted by:

(a) Agency: Procurement Services Division

(b) Authorized Official Signature:



R. Voight Shealy, Materials Management Officer

2. **Subject:** Waiver to extend the maximum time on a multi-term contract for USC Upstate

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### 3. Summary Background Information:

Section 11-35-2030(4), of the SC Consolidated Procurement Code limits the maximum time for any multi-term contract to five years unless otherwise approved by the Board. USC has asked the Materials Management Office to seek Board approval to authorize USC Upstate to contract for up to ten (10) years for its food service operations. USC Upstate officials believe a contract term of ten years will give the selected contractor greater ability to invest in improvements to the facilities and improve the quality of campus food service. USC Upstate has expanded its residence facilities by 350 students in 2005 and anticipates opening a third residence facility in the fall of 2009 that will increase its resident population to 1,050. The seating capacity for the current dining hall is approximately 255. USC Upstate plans to renovate and expand an existing café area in the summer of 2008 and renovate and expand the main dining hall in the summer of 2009. USC Upstate estimates a minimum capital investment by the contractor of \$1.5 million. In addition, to those capital investments, a commission on sales is being requested, to be determined by the selected offeror. According to USC Upstate officials, no additional cost will be imposed on meal plan prices for students as a result of the contractor's investment.

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### 4. What is Board asked to do?

Under authority of SC Consolidated Procurement Code Section 11-35-2030(4), grant USC Upstate's request for a multi-term contract for food service operations and authorize the solicitation of proposals and award of a contract for up to ten (10) years.

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5. **What is recommendation of Board division involved?** As stated in Item 4. above.

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### 6. Recommendation of other office (as required)?

(a) Authorized Signature: \_\_\_\_\_

(b) Division/Agency Name: \_\_\_\_\_

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### 7. List of supporting documents:

(a) Letter of request from USC

(b) Section 11-35-2030(4) of the SC Consolidated Procurement Code

## **EXCERPT FROM THE CONSOLIDATED PROCUREMENT CODE**

### **SECTION 11-35-2030. Multi-term contracts.**

(1) Specified Period. Unless otherwise provided by law, a contract for supplies, services, or information technology must not be entered into for any a period of more than one year unless approved in a manner prescribed by regulation of the board. The term of the contract and conditions of renewal or extension must be included in the solicitation and funds must be available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods must be subject to the availability and appropriation of funds for them.

(2) Determination Prior to Use. Before the utilization of a multi-term contract, it must be determined in writing by the appropriate governmental body that:

- (a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- (b) such a contract serves the best interests of the State by encouraging effective competition or otherwise promoting economies in state procurement.

(3) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(4) The maximum time for a multi-term contract is five years. Contract terms of up to seven years may be approved by the designated board officer. Contracts exceeding seven years must be approved by the board.



January 2, 2008

ASSOCIATE VICE PRESIDENT FOR  
BUSINESS AND FACILITIES

Mr. Delbert H. Singleton, Jr.  
State Budget and Control Board  
612 Wade Hampton Office Building  
PO Box 12444  
Columbia, SC 29211

Dear Mr. Singleton:

The University of South Carolina's Aiken and Upstate campuses are in the process of issuing Requests for Proposal through MMO to select contractors to provide dining services on their campuses. The current contracts are due to expire in June 2008. We are requesting approval to solicit and award new contracts for each of the campuses with ten-year terms.

We are expecting the selected contractors to make substantial capital investments in the food service facilities. A longer contract for amortizing the investment will give the selected contractors greater ability to invest in improvements to the facilities and improve the quality of the campus food service. At USC Aiken, an estimated \$800,000 is needed to be invested to renovate existing facilities and add a new dining facility to the freshman housing currently under construction. USC Upstate estimates a minimum capital investment by the contractor of \$1,500,000 to renovate and expand the existing café area and main dining hall. Letters are attached from each campus that more fully describes their needs with respect to food service investments.

Due to the nature of these contracts and the circumstances stated in this request, we believe it will be in the best interest of all parties involved to have ten-year contracts. I appreciate your consideration of this request and look forward to hearing from you.

Sincerely,

  
Helen T. Zeigler

Attachments

August 20, 2007

Mr. Jack V. Nichols  
USC Purchasing Department  
1600 Hampton Street 6<sup>th</sup> Floor  
Columbia, SC 29208

Dear Mr. Nichols:

USC Upstate is in the last year of a five-year contract for the management and operation of dining services. The solicitation process for the new contract will begin soon. In spring semester 2005, Upstate opened a 350-bed residential facility, increasing our total residential population to approximately 700 students. The seating capacity of our current dining hall is approximately 255 seats. This seating capacity has remained the same since the inception of our dining services program in 1995. In the fall of 2009, we anticipate opening a third residential facility, bringing our residential population to 1,050.

Current trends in campus dining show that students prefer a variety of dining venues. To meet the needs of our anticipated growth and provide students more variety in dining options, we have chosen to renovate and expand an existing café area in the summer of 2008 and renovate and expand the main dining hall in summer 2009. These two capital investments are expected to cost at a minimum, \$1,500,000. In addition to these major capital investments, a commission on sales has been requested, to be determined by the Offeror.

Dining revenues are typically based on meal-plan participation. In order to accommodate the growth in residential population, we are seeking substantial capital investments by the contractor prior to the opening of this residential facility. With the opening of Phase II housing in fall 2009, we believe dining revenues will increase significantly, with an estimated increase of 33% in meal plan sales. Because we are asking for such a large capital investment prior to the onset of revenue, we would like to be able to give the contractor sufficient time to amortize these investments so as not to jeopardize our chances to receive a viable commission rate on sales.

We will include language in the RFP to ensure that no additional costs will be imposed on meal plan prices for students as a result of the contractor's investment. Additionally, we will include language that will limit price increases for meal plans above the current costs to allow them only when the contractor can provide documentation of food service increases using Consumer Price Index data for the food industry.

August 20, 2007  
Jack Nichols  
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Based on the above, we are requesting permission to solicit the contract for the operation and management of USC Upstate dining services with a maximum contract term of ten years. The State's standard termination clause will be included in this contract, insuring the State's ability to terminate the contract for performance related reasons prior to the expiration of the term should that be required.

Thank you for your consideration of this request and we look forward to a favorable response.

Sincerely

Robert A. Connelly, Jr.  
Vice Chancellor for Business Affairs

RAC:jd

cc Venis Manigo, USC Purchasing  
Denis Ellinger, USC Upstate Purchasing